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March 25, 2024

The Honorable Freda L. Wolfson
Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, New Jersey 07068

**Re: Motion to Strike SaveOnSP's March 21, 2024 Surreply
Johnson & Johnson Healthcare Systems Inc. v. Save On SP, LLC
Case No. 2:22-cv-02632 (JKS) (CLW)**

Dear Judge Wolfson:

On behalf of JJHCS, we move to strike SaveOnSP's March 21, 2024 letter purporting to "update" the Court as to "the effect of J&J's proposed Amended Complaint" on three of SaveOnSP's fully briefed motions. SaveOnSP claims that its March 21 letter is "not intended to be a sur-reply." But apart from conditionally withdrawing one of its discovery requests, SaveOnSP's filing is exactly that. SaveOnSP's letter submits six exhibits and is replete with attempts to buttress its motions. *E.g.*, Surreply at 3 ("This is another reason the Court should grant SaveOn's motion for reconsideration . . ."); *id.* at 4 ("This underscores that Your Honor should grant the relief sought in . . . SaveOn's motion."); *id.* at 6 ("This is an additional reason that Your Honor should compel J&J to . . ."); *id.* at 7 ("This provides an additional reason that Your Honor should grant SaveOn's February 7 and February 16 motions. . .").

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The parties already have submitted over 80 pages of briefing and over 70 exhibits regarding these fully briefed motions, and SaveOnSP apparently intends to oppose JJHCS's motion for leave to amend its complaint (despite Rule 15(a)'s liberal standard). It is astounding that SaveOnSP seeks to rely on allegations in the proposed Amended Complaint, even while it intends to oppose its filing, to make yet more improper argument on their motions for reconsideration. JJHCS believes its motion for leave to amend should be granted, and that SaveOnSP's discovery demands should be denied under either version of the Complaint. But the Court has more than enough briefing on the pending motions—many of which already are SaveOnSP's second or third bites at the apple. Indeed, Your Honor already granted SaveOnSP's request to file a reply on its motion for reconsideration despite replies being disfavored for such motions and after the Court initially stated that it would decide the motion without a reply brief. *See* L. Civ. R. 7.1 (d)(3).

Enough is enough. The Court should strike SaveOnSP's surreply. *See Mason v. Therics, Inc.*, 2010 WL 147882, at *2 (D.N.J. Jan. 12, 2010) (striking an unauthorized reply brief in support of a motion for reconsideration). If (and only if) the Court is inclined to entertain SaveOnSP's attempt to reopen those motions, then in the alternative JJHCS requests an opportunity to address the new arguments SaveOnSP has made.

Respectfully submitted,

/s/ Jeffrey J. Greenbaum

JEFFREY J. GREENBAUM

cc: All Counsel
(by email)